

Message Text

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PAGE 01 STATE 133684
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FM SECSTATE WASHDC

TO AMEMBASSY BUCHAREST PRIORITY

C O N F I D E N T I A L STATE 133684

E.O. 11652: GDS

TAGS: EEWHT, RO

SUBJECT: ROMANIAN EMPLOYEES OF U.S. FIRMS: IMPACT OF
DECREE 81

REF: A) BUCHAREST 3686, B) BUCHAREST 4090; C) BUCHAREST
429Z

1. DEPARTMENT CONCURS WITH APPROACH EMBASSY HAS SO FAR TAKEN
ON POTENTIAL EFFECT OF DECREE 81. WE ALSO APPRECIATE
AMBASSADOR'S SUCCESSFUL EFFORTS TO OBTAIN MANUFACTURERS
HANOVER'S (AND HOPEFULLY PAN AM'S) EXEMPTION FROM THE
DECREE. ASIDE FROM THE EFFECT THE IMPLEMENTATION OF DECREE
81 MAY OR MAY NOT HAVE ON FIRMS ALREADY OR POTENTIALLY
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PAGE 02 STATE 133684

REPRESENTED THROUGH CONTRACTS WITH ARGUS, EMBASSY SHOULD
CONTINUE TO STRESS THAT WE CONSIDER NATURE AND TREND OF
ROMANIAN REGULATIONS COVERING U.S. FIRMS' OPERATIONS IN
ROMANIA, PARTICULARLY THEIR RELATIONS WITH THEIR EMPLOYEES,
AN IMPORTANT FACTOR IN EVALUATING READINESS OF ROMANIAN
GOVERNMENT TO FACILITATE TRADE BETWEEN THE TWO COUNTRIES.

2. DEPARTMENT AND COMMERCE BELIEVE THAT DECREE 81 CONTRAVENES THE PURPOSE AND OBJECTIVES OF THE TRADE AND LONG-TERM AGREEMENTS AS WELL AS THE CSCE FINAL ACT. IN NEGOTIATING THE TRADE AGREEMENT, THE U.S. SOUGHT, AND UNDERSTOOD IT HAD OBTAINED AGREEMENT TO, AN ATMOSPHERE WHICH WOULD ENCOURAGE

THE CREATION OF PRODUCTIVE TRADE REPRESENTATIONS. DECREE 81 SETS UP NEW OBSTACLES, BEYOND THOSE OF DECREE 15 OF JANUARY 25, 1971, FURTHER LIMITING THE FLEXIBILITY OF U.S. FIRMS TO SELECT, HIRE AND COMPENSATE EMPLOYEES AND TO TERMINATE THEIR EMPLOYMENT, CONTRARY TO THE OBJECTIVE OF ANNEX 2(I), PARA 10 OF THE TRADE AGREEMENT. COOPERATION ACTIVITIES WOULD BE SIMILARLY AFFECTED, SINCE THEY ARE ENTITLED TO EQUIVALENT RIGHTS AND FACILITIES THROUGH ANNEX I(1)(G) REPEAT (G) OF THE LONG-TERM AGREEMENT. DECREE 81 APPEARS TO LIMIT SEVERELY THE SCOPE OF THE CONTRACTS FOR EMPLOYEES OTHER THAN EMPLOYEES OF REPRESENTATIONS WHICH FIRMS IN COOPERATION ACTIVITIES ARE ENTITLED TO NEGOTIATE UNDER ANNEX I(1)(C). IN A MORE GENERAL SENSE, THE PASSAGE OF DECREE 81 APPEARS TO BE A STEP BACKWARD FROM ROMANIA'S AGREEMENT IN THE FINAL ACT TO CREATE FAVORABLE CONDITIONS FOR THE PARTICIPATION OF FIRMS IN THE DEVELOPMENT OF TRADE.

3. IN REVIEWING BILATERAL AGREEMENTS CURRENTLY IN FORCE, INCLUDING TAX CONVENTION, DEPARTMENT'S LEGAL STAFF FOUND NO EXPLICIT LEGAL OBLIGATIONS VIOLATED BY DECREE 81, ALTHOUGH ROMANIAN ACTION IS INCONSISTENT WITH UNDERLYING OBJECTIVES OF TRADE AND LONG-TERM AGREEMENTS. WHILE CONFIDENTIAL

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PAGE 03 STATE 133684

DECREE 81 WOULD SEEM TO CONFLICT WITH SIDE LETTER OF THE AIR TRANSPORT SERVICES AGREEMENT (ATA), AGREEMENT HAS LAPSED, AND ITS FUTURE IS UNCERTAIN. WE ASSUME EMBASSY WILL SEEK OFFICIAL VERIFICATION OF PAN AM'S STATUS (REFTEL C).

4. WE LEAVE TO EMBASSY'S JUDGMENT WHETHER REQUEST FOR ASSURANCES REGARDING TERMINATION OF EXISTING EMPLOYEES IS LIKELY TO BE HELPFUL. WE SEE LITTLE POINT IN DOING SO FOR FIRMS NOW ASSOCIATED WITH ARGUS UNLESS THEIR CONTRACTS ARE BEING REWRITTEN.

5. HASFURTHER OF U.S. CHAMBER OF COMMERCE INFORMED BEWT THAT HE WILL DISCUSS THE DECREE AND ITS IMPACT ON U.S. FIRMS WITH ROSENTHAL AND THAT HE PLANS TO RAISE IT IN COUNCIL MEETING AGENDA (PROBABLY BOTH IN PLENARY SESSION AND AT WORKING GROUP MEETINGS). BEWT IS WORKING CLOSELY WITH HASFURTHER ON UP-COMING COUNCIL MEETING, AND AS ITS AGENDA DEVELOPS, WE WILL INFORM EMBASSY MORE SPECIFICALLY.

6. DEPARTMENT REQUESTS EMBASSY OBTAIN A DETAILED CLARIFICATION OF ARTICLE 8 OF DECREE 81. IF THIS IS INTERPRETED TO APPLY TO EMPLOYMENT, COMPENSATION AND TERMINATION OF AMERICAN OR THIRD COUNTRY NATIONAL EMPLOYEES OF AMERICAN FIRMS, POTENTIAL DAMAGE TO U.S.-ROMANIAN TRADE RELATIONS COULD BE MORE SERIOUS, AND LEGAL QUESTIONS WOULD ARISE.

7. DEPARTMENT WILL CONTINUE, AT SUITABLE OCCASIONS (SUCH AS GLIGA-NIMETZ MEETING), TO RAISE IMPACT OF DECREE 81 ON OPERATIONS OF U.S. FIRMS. HOWEVER, WE BELIEVE THAT THRUST OF U.S. RESPONSE SHOULD CONTINUE TO BE EMBASSY'S EFFORTS WITH PATAN, MARGARITESCU AND OTHER SENIOR ROMANIAN OFFICIALS. VANCE

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